

REMARKS

Claims 1-4, 6, 9, 40, 41, 48-51, 70, 72, 76, 77 and 83-90 are pending.

In the Office Action mailed October 14, 2009, the Examiner provisionally rejected claims 40-41, 48-51 and 85-90 on the ground of nonstatutory obviousness-type double patenting over claims 68-94 of copending Application No. 12/248,616. Applicant hereby files a Terminal Disclaimer. The Terminal Disclaimer is being filed to advance prosecution of this Application and to seek allowance at the earliest possible date. Therefore, no admission may be inferred from this response or the Terminal Disclaimer being filed.

In view of the foregoing, applicant believes the double patenting rejections have been resolved. However, if the Examiner has any additional concerns, then the undersigned counsel would be happy to discuss any remaining questions at the Examiner's convenience.

Application No. 10/749,150  
Response to Office Action dated October 14, 2009

Applicant submits that the present application is in condition for allowance, and favorable consideration and prompt allowance are respectfully requested. The Examiner is invited to telephone the undersigned to discuss the present application.

Respectfully submitted,

November 25, 2009

/Thomas R. Hipkins/  
Thomas R. Hipkins  
Registration No. 57,659

Customer No. 22859  
Fredrikson & Byron, P.A.  
200 South Sixth Street  
Suite 4000  
Minneapolis, MN 55402-1425 USA  
Telephone: (612) 492-7000  
Facsimile: (612) 492-7077

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.*

4653769\_1.DOC